

REMARKS/ARGUMENTS

Claims 27, 30 to 33, 36 to 42 and 44 to 51 remain in this application. Claims 1 to 26, 28, 29, 34, 35 and 43 have been canceled. Claims 47 to 51 have been newly added.

Claims 47, 48, 50 and 51 are the same scope as previously presented claims 27, 36, 40 and 44. Claim 27 has been amended and claims 40 and 44 have been rewritten in independent form without the limitation of the gluing surfaces having no portion perpendicular to the first major surface. This feature is not relied upon to distinguish any of the prior art cited in this or the previous Office Actions.

Support for the “resilient flooring sheet” in claims 30 to 33, 39 to 42 and 44 to 46 is found at page 1, lines 6 to 11, for example.

Claims 36, 41 and 44 have been amended to improve definiteness.

The independent claims either require a seamless resilient wear layer that covers substantially the entire surface covering or resilient flooring sheet, including the two elements and the seam (claims 27 and 40), the seam running the width of the roll (claim 37) or the gluing surfaces being in a plane generally parallel to the axis of the roll (claim 44).

Claims 28 and 39 have been rejected as being anticipated by Shih US Patent No. 6,124,010 (Shih) for the reasons previously made in Paper 9. The Examiner states that in the absence of any evidence to the contrary, the Examiner maintains her position. The rejection of claims 28 and 39 was argued in the Amendment filed November 26, 2003. The previous rejection based on Shih was not maintained in the Advisory Action mailed

December 12, 2003. Therefore, it was believed that the rejection over Shih had been overcome.

Claim 28 has been canceled. Claim 39 has been amended to depend on claim 40. Claim 40 requires a seamless resilient wear layer that covers substantially the entire resilient flooring sheet, including the two resilient sheet elements and the seam. Shih is directed to seaming foam sheets for sportswear and not the claimed resilient flooring sheet of claim 39. Shih does not disclose or suggest a resilient wear layer. Therefore, Shih does not anticipate or make obvious the claimed invention of present claim 39, which includes the seamless wear layer that covers the seam, and claim 39 is allowable over Shih.

Claims 30, 37, 39, 41, 42, 44 and 45 have been rejected as being obvious over MacLaine et al. US Patent No. 3,615,994 (MacLaine) in view of Webster's New World Dictionary. Claims 30, 39, 41 and 42 have been amended to depend directly or indirectly on claim 40. Again, claim 40 requires a seamless resilient wear layer that covers substantially the entire resilient flooring sheet, including the two resilient sheet elements and the seam. MacLaine does not disclose or suggest a seamless wear layer. The wear layer of MacLaine is bonded by solvent welding. See the Abstract, for example. Therefore, claim 40 and the claims dependent thereon are allowable over MacLaine.

Claim 37 requires the seam to run the width of the roll. Claims 44 and 45, as amended, require the seam to be in a plane generally parallel to the axis of the roll. The seam of MacLaine runs along the length of the cushioned vinyl sheet. Therefore, when the sheet of MacLaine is wound on roll 74, as shown in Figures 6 to 8, the seam is in a plane generally perpendicular to the axis of the roll, and not in a plane generally parallel

to the axis of the roll. Therefore, claims 37, 44 and 45 are allowable over MacLaine and the Webster's New World Dictionary.

Claims 31 to 33 have been rejected as being obvious over MacLaine and the Webster's New World Dictionary in view of Ehrhart et al. US Patent No. 5,140,088 (Ehrhart). Claims 31 to 33 have been amended to depend on claim 40. As discussed above MacLaine and the Webster's New World Dictionary do not teach or suggest the required seamless resilient wear layer that covers substantially the entire resilient flooring sheet, including the two resilient sheet elements and the seam.

Further, the composition of Ehrhart is not an adhesive. Column 1, lines 56 to 62, cited by the Examiner, teaches that a cyanoacrylate can be used as a seam coater or sealer, and not as an adhesive. Therefore, claims 31 to 33, which are directed to a specific adhesive, are allowable over the combination of MacLaine, the Webster's New World Dictionary and Ehrhart.

Claims 27, 36, 38, 40, 43 and 46 have been rejected as being obvious over MacLaine, the Webster's New World Dictionary and Pacione US Patent No. 6,298,624 (Pacione). Claim 43 has been canceled. The other claims require a seamless resilient wear layer that covers substantially the entire surface covering or resilient flooring sheet, including the two resilient sheet elements and the seam.

Claims 27, 36, 38, 40 and 46 have been amended to improve definiteness. Resilient wear layers include resilient top coats. As defined in ASTM F141-91, which was previously submitted, a wear layer is the portion of a resilient floor covering that contains or protects the pattern effect. A top coat is the layer of the wear layer that is exposed to traffic wear. ASTM F141-91 also defines resilient flooring to be an organic

floor surfacing material in sheet or tile form or formed in place as a seamless material of which the wearing surface is non-textile, and resilient flooring sheet is defined as a flexible resilient flooring, packaged in roll form, in which the length substantially exceeds the width.

The Examiner states that

“Pacione teaches a resilient covering layer that covers the entire surface covering component, including the two elements and the seam formed by adjacent gluing surfaces and adhesive (figure 4 numbers 9, 13, 15) for the purpose of installing a decorative cover (col. 1 lines 13-17).”

The Examiner's position is incorrect in a number respects. The invention of Pacione is a decorative covering that is assembled by overlapping hook and loop attachments of covering modules or components, e.g. carpet pieces. While Pacione teaches substituting a pressure sensitive adhesive for the hook and loop attachments, and gluing the anchor sheets to the floor, there is no teaching or suggestion of adjacent gluing surfaces and adhesive to bond the decorative components or carpet pieces together. Therefore, there is no teaching or suggestion of a wear layer or any other layer covering a seam form by two gluing surfaces and adhesive.

Further, while Figure 4 of Pacione does show the carpet 15 overlapping both the hook cover sheet 9 and the bridging hook cover 13, claim 27 has been amended to require the seamless resilient wear layer to cover substantially the entire surface covering. The invention of Pacione is to detachably attach a number of carpet pieces to an anchor cover to form the decorative surface covering. This is contrary to the presently claimed invention in which the seamless wear layer covers substantially the entire surface covering or resilient flooring sheet.

Still further, Pacione does not teach a seamless resilient wear layer. Again, the exposed surface to the Pacione decorative surface covering is not seamless and it is not a resilient wear layer.

Similarly, Pacione does not teach or suggest two resilient sheet elements, and particularly resilient sheet elements that are glued together. Therefore, for all these reasons claims 27, 36, 38, 40 and 46 are allowable over the combination of references that includes Pacione.


Claim 27 was previously rejected as being anticipated by Winer et al. US Patent No. 6,073,408 (Winer). Winer does not teach or suggest a seamless wear layer or any other layer overlying a seam.

Claims 27, 36, 38, 40 and 46 were previously rejected as being obvious over MacLaine and Winter IV US Patent No. 4,907,383 (Winter) in view of Pacione. None of MacLaine, Winter or Pacione teach or suggest a seamless wear layer or any other layer overlying substantially the entire surface covering or resilient flooring sheet, including a seam.

For the reasons discussed above, it is believed that the present claims are allowable. Therefore, Applicants respectfully request that a timely Notice of Allowance - be issued in the application.

Respectfully submitted,

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